

**THE TRAINING AND EMPLOYMENT OF DISABLED PERSONS
(AMENDMENT) BILL
(No. XV of 2012)**

Explanatory Memorandum

The main object of this Bill is to amend the Training and Employment of Disabled Persons Act to make better provision for the promotion of the access of persons with disabilities to employment by providing for –

- (a) a change in the composition of the Training and Employment of Disabled Persons Board;
- (b) the setting up of a Hearing Committee which will conduct hearings for the purposes of section 13(4) or 14(3) of the Act; and
- (c) an increase in the fine that may be imposed for non-compliance with the Act,

and for related matters.

S. BAPPOO, G.O.S.K.
*Minister of Social Security, National
Solidarity and Reform Institutions*

22 June 2012

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ARRANGEMENT OF CLAUSES

Clause

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| 1. Short title | 8. Section 15 of principal Act amended |
| 2. Interpretation | 9. Section 18 of principal Act amended |
| 3. Section 2 of principal Act amended | 10. Section 20 of principal Act amended |
| 4. Section 3 of principal Act amended | 11. Schedule to principal Act repealed
and replaced |
| 5. Section 4 of principal Act amended | 12. Commencement |
| 6. Section 13 of principal Act amended | |
| 7. Section 14 of principal Act amended | |
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A BILL

To amend the Training and Employment of Disabled Persons Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Training and Employment of Disabled Persons (Amendment) Act 2012.

2. Interpretation

In this Act –

“principal Act” means the Training and Employment of Disabled Persons Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) by deleting the definition of “disabled person” and replacing it by the following definition –

“disabled person” means a person who is certified by the Board –

- (a) to have a long-term physical disfigurement or physical, mental or sensory disability, including a visual, hearing or speech functional disability, which gives rise to barriers or prejudices impeding his participation at an equal level with other members of society in major life activities, undertakings or fields of employment that are open to other members of society; and

- (b) to be willing and able to work;

- (b) by deleting the definition of “employer” and replacing it by the following definition –

“employer” –

- (a) means any person who, or entity which, has in his or its regular employment 35 or more employees; and
- (b) includes every statutory body;
- (c) by inserting, in the appropriate alphabetical order, the following new definition –

“Hearing Committee” means the committee referred to in section 13(4);

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended by repealing subsection (3) and replacing it by the following subsection –

- (3) The Board shall consist of –
 - (a) a Chairperson, to be appointed by the Minister;
 - (b) a representative of the Ministry responsible for the subject of social security;
 - (c) a representative of the Ministry responsible for the subject of employment, labour and industrial relations;
 - (d) a representative of the Ministry responsible for the subject of social integration and economic empowerment;
 - (e) a representative of the Mauritius Institute of Training and Development;
 - (f) the Head, Disability Unit of the Ministry responsible for the subject of social security;
 - (g) a representative of employers, to be designated by the Mauritius Employers’ Federation;
 - (h) a representative of trade unions, to be appointed by the Minister;
 - (i) 4 disabled persons, to be appointed by the Minister on the recommendation of the National Council for the Rehabilitation of Disabled Persons.

5. Section 4 of principal Act amended

Section 4 of the principal Act is amended, by inserting, after paragraph (a), the following new paragraph –

- (aa) educate and sensitise employers on the importance of employing disabled persons and contribute to remove barriers or prejudices with regard to the employment of such persons;

6. Section 13 of principal Act amended

Section 13 of the principal Act is amended –

- (a) in subsection (1), by inserting, after the words “specified in”, the words “Part I of”;
- (b) by repealing subsection (4) and replacing it by the following subsection –

(4) The Board shall set up a Hearing Committee to hold a hearing for the purposes of this Act, and any finding and recommendation made by the Hearing Committee shall be communicated to the Board for consideration and decision.

- (c) by inserting, after subsection (4), the following new subsection –

(4A) The Hearing Committee shall consist of –

- (a) a Chairperson, who shall be a law practitioner, to be appointed by the Minister, after consultation with the Attorney-General;
- (b) a representative of the Ministry responsible for the subject of social security;
- (c) a representative of the Attorney-General’s Office;
- (d) a representative of the Mauritius Employers’ Federation;
- (e) a representative of disabled employees, to be appointed by the Minister;

- (f) the General Manager of the Training and Employment of Disabled Persons Board.
- (d) in subsection (6), by deleting the words “The Board or any committee under subsection (4)” and replacing them by the words “The Hearing Committee”;
- (e) in subsection (7) –
 - (i) by deleting the words “after making a” and replacing them by the words “in the light of the”;
 - (ii) in paragraph (a), by deleting the words “as may be prescribed” and replacing them by the words “as is specified in Part II of the Schedule”;
- (f) in subsection (8), by deleting the figure “14” and replacing it by the figure “15”.

7. Section 14 of principal Act amended

Section 14 of the principal Act is amended –

- (a) in subsection (3) –
 - (i) by repealing paragraph (a);
 - (ii) in paragraph (b), by deleting the words “any of its committees” and replacing them by the words “the Hearing Committee”;
- (b) in subsection (5) –
 - (i) by inserting, after the words “made by the”, the word “Hearing”;
 - (ii) by deleting the words “and be deemed to be a determination of the Board” and replacing them by the words “for consideration and decision”;
- (c) in subsection (6), by deleting the words “subsections (3)(a) or (5)” and replacing them by the words “subsection (5) and may give such directions to an employer as it may consider reasonable and proper in all the circumstances”;
- (d) by adding the following new subsection –

(7) The employer shall, subject to section 15, comply with any direction of the Board under subsection (6).

8. Section 15 of principal Act amended

Section 15 of the principal Act is amended, in subsection (1) –

(a) in paragraph (b), by inserting, after the words “section 13(7)”, the words “or 14(6)”;

(b) by repealing paragraph (c) and replacing it by the following paragraph –

(c) a decision of the Board under section 13(7) or 14(5),

9. Section 18 of principal Act amended

Section 18 of the principal Act is amended –

(a) in subsection (1)(a), by inserting, after the words “section 13(7)”, the words “or 14(6)”;

(b) in subsection (2), by deleting the figure “4,000” and replacing it by the figure “75,000”.

10. Section 20 of principal Act amended

Section 20 of the principal Act is amended –

(a) by numbering the existing provision as subsection (1);

(b) by adding the following new subsection –

(2) Regulations made under subsection (1) may provide for the amendment of the Schedule.

11. Schedule to principal Act repealed and replaced

The Schedule to the principal Act is repealed and replaced by the Schedule set out in the Schedule to this Act.

12. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

SCHEDULE
[Section 11]

SCHEDULE
[Section 13]

PART I

Employer	Number of disabled persons to be employed
Employer having a workforce of 35 or more workers	Number representing 3 per cent of workforce

PART II

Contribution to be paid by an employer where directed by the Board	Rs 4,000 monthly for each disabled worker not yet recruited to meet the percentage specified in Part I
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